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In re Application of: Teodorovich, Mishko

Group Art Unit: 3635

Serial No.: 10/730,414

Filed: 12/08/2003

Examiner: Kwiecinski, Ryan

For: Door and window sill pan with drain

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Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Central fax number 571-273-8300

### **Response to Office Action**

Dear Examiner Kwiecinski,

#### **Remarks**

1. This Response is in response to the Final Office Action mailed July 18, 2008.

### **Declaration of Commercial Success**

2. In addition to the arguments presented below, Applicant presents the attached Amended Declaration of Commercial Success which describes how the claimed invention features provide a cost-effective and versatile solution for the building industry. This commercial success is secondary evidence of non-obviousness of the current invention and claims. As noted below, the claims are amended to show a more specific relationship between two design aspects of the current invention and its commercial success and ability to satisfy a long-felt need. Those aspects are the ability to be fit to and to protect the rough opening (which permits the sill pan to be effectively integrated with a buildings weather resistant barrier as discussed in the Declaration); and its ability to provide continuous or near continuous support for doors and windows.

3. The Declaration of Commercial Success has been clarified to cite additional evidence of long felt need; why previous products have not satisfied that long felt need; and why the current invention satisfies the long felt need.
4. The Declaration of Commercial Success has been clarified to cite additional evidence of commercial success; and to clarify how claimed features of the current invention are the basis for that commercial success.

### **§103 Claims Rejections**

5. Applicant respectfully traverses the rejection of Claims 1, 4, 8, and 10 as being unpatentable over US 6,371,188 to Baczuk in view of US 6,382,925 to Wark.
6. Several of the cited prior art references including Baczuk, describe “sills” rather than “sill pans”. Additional evidence about the difference between sills and sill pans is presented in Appendix A of the Declaration of Commercial Success. In order to further clarify this distinction, Claims 1 and 18 have been amended to cite “A sill pan for protecting the rough opening width of a window or door”. Support for this amendment is in the specification:

“In one embodiment of the current invention, a base unit is provided which can be manufactured by extrusion and either cut to a desired length to fit the door or window width opening, or used with other similar elements and connectors to establish a desired final length. End pieces and optional center joining elements are provided for field assembly. “ (Page 1, lines 16-20)

As noted in Appendix 2 of the Declaration of Commercial Success, there has been a long-felt need for effective sill pans to integrate with the weather-resistant barrier

("WRB") of structures. One limitation of door and window sills is that they do not integrate with the WRB. For instance, a rough opening for a window or door is typically wider than the window or door. A window or door sill, therefore, cannot provide an effective barrier across the entire rough opening.

Claims 1 and 18 have also been amended to cite **"such that the rear sill support and the front sill support provide continuous or near continuous support to the window or door"**. Support for this amendment is in the specification and FIGs 1 and 3:

"Referring now to FIG. 1 which is a top view of a single sill pan, the sill pan includes a base 30 with a downwardly sloping top surface. The sill pan has a front support ridge 31 and a rear support ridge 32 for supporting a window or door." (Page 8, lines 3-5)

7. The references of Baczuk and Wark are not reasonably combined to form a rejection of these claims. Baczuk describes a door sill, and does not describe a sill pan. Baczuk teaches away from the current invention by providing a door sill base that cannot be integrated with the building envelope.

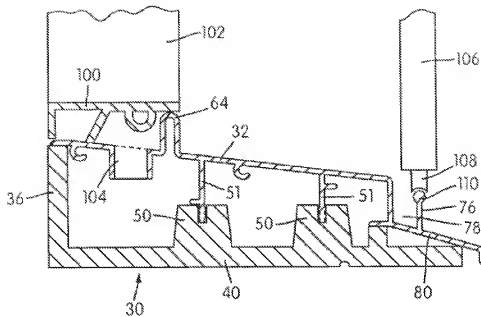


FIG. 5

Baczuk's FIG. 5 is shown above. Baczuk's tread structure **32** would collapse without the sub sill **30** portion. If sub sill **30** is removed, then the sill would lose the structural support and could not function.

The Baczuk sub sill **30** is not designed to be used with other door sills or window sills but only with a tread structure **32**.

Baczuk invention **30** is not a sill pan but a base for the door sill assembly. This is why there is not downwardly extended flange on Baczuk because this is a door sill, and door sills do not have downwardly extended flanges. The purpose of the downwardly lip is to integrate the sill pan with the building envelope. As described in the long felt need discussion of Appendix B in the Declaration of Commercial Success, door sills do not integrate with the building envelope.

In addition, the end pieces do not have the shape that is shown on ASTM 2112 definition of sill pan, because Baczuk is a door sill and does not integrate with the envelope (weather resistive barrier).

In addition, Baczuk sub sill portion collects the water that goes through the tread structure, and not the water that goes around the door frame. The purpose of the sill pan is to collect and drain the water that goes around the frame and the entire rough opening. Baczuk assembly will need to be placed in the sill pan that protects the entire rough opening.

8. Applicant respectfully traverses the rejection of Claim 5 as being unpatentable over US 6,371,188 to Baczuk in view of US 6,382,925 to Wark in view of US 1,904,404 to Burk.

The references of Baczuk, Wark, and Burk are not reasonably combined to form a rejection of claim 5. Baczuk describes a door sill, and does not describe a sill pan. Baczuk teaches away from the current invention by providing a door sill base that cannot be integrated with the building envelope.

9. Applicant respectfully traverses the rejection of Claims 6 and 7 as being unpatentable over US 6,371,188 to Baczuk in view of US 6,382,925 to Wark in view of US 2004/0139667 to Massey.

The references of Baczuk, Wark, and Massey are not reasonably combined to form a rejection of claims 6 and 7. Baczuk describes a door sill, and does not describe a sill pan. Massey describes a “threshold and door sill assembly”. Massey and Baczuk teach away from the current invention by providing door sills that cannot be integrated with the building envelope.

10. Applicant respectfully traverses the rejection of Claims 18-20 as being unpatentable over US 6,371,188 to Baczuk in view of US 5,136,814 to Headrick.

The references of Baczuk, Wark, and Headrick are not reasonably combined to form a rejection of claims 18-20. Baczuk describes a door sill, and does not describe a sill pan. Headrick describes a door sill. Massey and Headrick teach away from the current invention by providing door sills that cannot be integrated with the building envelope.

11. Applicant argues that pending claims 1, 4-8, 10, and 18-20 are now in condition for allowance.

Thank you for your assistance in this application.

Dated: September 17, 2008

Respectfully submitted,

/Rick B. Yeager/

Rick B. Yeager  
Attorney at Law  
10805 Mellow Lane  
Austin, Texas 78759  
Registration No. 39,434  
Telephone (512) 918-1237  
Facsimile (512) 918-1238  
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